

### **REMARKS/ARGUMENTS**

This reply is in response to the final Office Action dated December 18, 2007. Claims 56-137 are pending in the application and stand rejected. Reconsideration of the claims is respectfully requested in view of the following remarks.

#### **35 U.S.C. §103(a) - Obviousness**

Claims 56-137 stand finally rejected under 35 U.S.C. §103(a) as unpatentable over Lue et al. (U.S. Patent No. 6,255,426; hereafter "Lue") in view of Takahashi et al. (EP Patent No. 982 362 A1; hereafter "Takahashi") and Wong et al. (U.S. Patent No. 6,358,457; hereafter "Wong"). The Examiner, acknowledging "Lue et al fail to teach that at least one layer comprises one or more tackifiers," relies on Takahashi et al as teaching "it is well known in the art to add tackifiers or cling additives such as low molecular weight polyisobutylene (PIB) in order to provide the packaging film with cling properties." The Examiner then concludes it would have been obvious "to add a tackifier or cling agent such as PIB to the stretch film of Lue et al, in order to provide the stretch film with cling properties, as taught by Takahashi et al."

This rejection is respectfully traversed.

Applicants respectfully traverse this rejection on grounds that the Examiner has not established a *prima facie* case of obviousness. Lue discloses a copolymer that could be useful for stretch films, but makes no mention of tackifier. To cure this deficiency the Examiner relies on the teaching of Takahashi. However, Takahashi discloses films made from completely different copolymers than Lue and states that "additives, such as antioxidant..., phosphites..., cling additives..., pigment, colorant and filler can be added in amounts not detrimental to the improved film properties found by the present applicants." See, Takahashi at page 34, ll. 50-55 (emphasis added). Takahashi makes no mention of a tackifier without the other five additives. Indeed, Takahashi discloses adding tackifier as one component of a class of six different kinds of known additives. Moreover, Takahashi makes no mention or teaching as to how much tackifier would be "detrimental to the improved film properties." Such absence of tackifier in Lue, when tackifiers in stretch films were conventional wisdom and well known, and the teaching of Takahashi that the addition of six kinds of additives is detrimental to film properties, one of ordinary skill in the art reading those references would not be motivated or driven to the claimed

invention, but yet motivated in the opposite direction, i.e., no tackifier. For at least this reason, the claims are not taught, shown or suggested by a combination of Lue and Takahashi.

The Examiner has urged in the October 18, 2007 Office Action that Takahashi teaches "that tackifiers can be added to films without ruining film properties." Given applicants' use of up to 20% tackifier, Takahashi, according to the Examiner, implies nothing more than that too much tackifier can ruin film properties, a truism. With regard to present claims 88-89, 106-107, and 131-137, which all require specific amounts of tackifier, the Examiner argues it would have been obvious to add tackifier or cling agents "to the stretch film in an amount not detrimental to the improved film properties with regard to the stretch and wrap ability of the film, as taught by Takahasi et al on page 34, lines 51-55." However, Takahasi et al. teaches adding its additives *only* in "amounts not detrimental to the *improved film properties found by the present applicants*." Takahasi et al, page 34, lines 55-56.

The "improved film properties" specifically referred to by Takahasi et al are limited to "improved transparency, toughness, extrusion processability and irradiation crosslinking efficiency." Id. at 34, lines 47-48. No mention of the presently claimed properties relied upon by applicants is made by Takahasi et al. In particular, this reference is silent respecting natural draw ratio, tensile stress at the natural draw ratio, and tensile stress at second yield, properties with specific limitations set out in independent claims 56, 74, 90, 112, and 131 of the present application. Accordingly, one skilled in the art acquainted with both Lue and Takahasi et al would not be led to modify the compositions of Lue by adding tackifier as taught by Takahasi et al. First, as earlier noted, Takahasi et al relates to films made from completely different copolymers than Lue's. Thus, one skilled in the art would not expect Takahasi et al's teachings respecting tackifiers to apply to the films of Lue. Secondly, even if one skilled in the art assumed Takahasi et al's films were analogous to the films of Lue, a skilled person concerned with maintaining or improving the specific copolymer film properties covered by the present claims, namely, *natural draw ratio, tensile stress at the natural draw ratio, and tensile stress at second yield*, would not be influenced by Takahasi et al's teaching of using six additives, including tackifier, without adversely affecting the specific properties of "improved transparency, toughness, extrusion processability and irradiation crosslinking efficiency."

The Examiner, at page 5 of the October 18, 2007 office action, acknowledges the combination of Lue and Takahashi failed to explicitly teach the claimed particular natural draw ratio, tensile stress at natural draw ratio and tensile stress at second yield. Accordingly, Wong is cited as teaching "that the natural stretch ratio is determined by factors such as polymer composition and morphology caused by the process of forming the film." The Examiner then reasons that the film of Lue and Takahashi "has the *exact same composition and is made by the same process*" and that Lue's film is taught as a shrink film "which obviously must be stretched in order to allow the film to shrink." From this the Examiner concludes it would have been obvious that the film would have the presently claimed draw ratio, tensile stresses and yield plateau.

This is simply not true. No one of ordinary skill in the art would have thought adding tackifier to the copolymer taught by Lue would produce stretch films that exhibit the combination of a large natural draw ratio, large tensile stress at second yield, large tensile stress at the natural draw ratio, and positive yield plateau slope large enough to absorb typical variations in film thickness without tiger striping. Instead, one of ordinary skill in the art would have expected a diminution in properties as shown by the comparative examples discussed in applicant's specification.

Accordingly, the Examiner's reliance on Wong for broadly teaching the natural stretch ratio is determined by factors such as polymer composition and morphology would be of no use to the skilled person in producing the present invention. This reference simply fails to disclose or suggest a reason to add Takahashi's tackifier in the disparate films of Lue. In responding to applicant's earlier arguments, the Examiner urges that Takahashi "specifically states that tackifiers are added to similar films without affecting film properties" and that "one of ordinary skill in the art [familiar] with the teachings of Lue and Takahashi would be motivated to add the tackifier to Lue for added cling properties" requiring, at most, "minimal experimentation in light of the teaching of Takahashi to determine that the tackifier could be added without affecting the desired film properties."

As has been shown in applicants' response of August 30, 2007, the presently claimed compositions containing tackifier are unexpectedly *not* substantially changed in properties such

as natural draw ratio, tensile stress at the natural draw ratio, and tensile stress at second yield, as compared to similar compositions without tackifier. The response, at page 13, Table 3 comparing inventive film with and without tackifier showed "significant increase in natural draw ratio with minimal loss in tensile stress, and in some cases an increase in tensile stress, [which] was unexpected and surprising since significant decreases in all three would have been expected as shown in Table 4." Table 4, relating to comparative film with and without tackifier, showed that adding tackifier resulted in significant decrease (24% to 30%) in tensile stress at the natural draw ratio which was significantly greater than the losses of the presently claimed films ( $\leq 13\%$ ). Moreover, with regard to independent claims 74 and 131 and their dependent claims which are limited by yield plateau, Table 4 shows a significant increase in tensile stress at the second yield flattened or lowered the yield plateau slope, evidencing the comparative film with tackifier had greater propensity to suffer from local deformation such as tiger striping.

In short, no one of ordinary skill in the art would have thought adding tackifier to a copolymer as taught by Lue would produce stretch films that exhibit the combination of a large natural draw ratio, large tensile stress at second yield, large tensile stress at the natural draw ratio, and positive yield plateau slope large enough to absorb typical variations in film thickness uniformity without tiger striping. Instead, one of ordinary skill in the art would have expected a diminution in properties as shown by the Comparative Examples.

Applicant thus submits that one of ordinary skill in the art would appreciate that the claimed invention is unique and nothing short of surprising and unexpected. Therefore, the claimed invention is novel and not obvious in view of Lue, Takahashi and Wong.

## **CONCLUSION**

Applicants believe that the foregoing is a full and complete response to the Office Action of record. For the foregoing reasons, Applicants submit that the present claims meet all the requirements for patentability. Accordingly, an early and favorable reconsideration of the rejection, and allowance of pending claims 56-137 is requested.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated, because this should expedite the prosecution of the application for all concerned.

If necessary to affect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to affect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #: 2002B117/2US).

Respectfully submitted,

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